

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Suits Arbitration – An amount of Rs.29,00,000/- as full and final settlement of Arbitration Award dated 09.03.2005 & 22.03.2005 in OS No.7/2002 and 8/2002, on the file of the II Addl. Chief Judge, City Civil Court, Hyderabad in respect of the work relating to (a) “Modernization of K.C.Canal lining to Main Canal from Km.91.000 to Km.96.500 (M9) vide Agt.No.11SE/1994-95 dt.23.05.1994” and (b) “Modernization of K.C.Canal lining to Main Canal from K.96.500 to Km.102.000 (M10), vide Agt.No.5SE/1994-95, dated 06.04.1994” which was entrusted to M/s.Max Infra (I) Ltd., Hyderabad – Sanctioned – Orders – Issued.

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IRRIGATION & CAD (IRRIGATION WING: ARBITRATION) DEPARTMENT

G.O.Rt.No. 358.

Dated:29-05-2014.

Read the following:-

1. From the Hon'ble High Court of A.P., Hyderabad, Orders dt.01.04.2009 in CCCA No.244 & 245 of 2005 & Cross Objections (SR) No.10500 of 2009.
2. From M/s.Max Infra (India) Ltd., Hyderabad. Representation dt.06.06.2009.
3. Report of the Conciliation Committee for Rayalaseema Region held on 26.05.2010.
4. From the CE (P), Kurnool, Lr.No.CE (P)/KNL/DEEE.1/AE/KCC-ARB/137.Govt., dt.24.10.2013.
5. From M/s. Max Infra (India) Ltd., Hyderabad, Representation dt.25.11.2013.

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ORDER:

The two works relating to (a) “Modernization of K.C. Canal lining to Main Canal from Km.91.000 to Km.96.50 (M9) and; (b) “Modernization of K.C. Canal lining to Main Canal from Km.96.50 to Km.102.00 (M10)” which were entrusted to M/s. Sri G. Venkat Reddy & Co., a Registered Partnership Firm, vide Agt No. 11SE/1994-95 dated 23.5.1994 for Rs. 713 lakhs.and Agt No. 5SE/1994-95 dated: 6.4.1994 for Rs. 682.00 lakhs, respectively. Subsequently, the Firm has been converted into a limited company under the name and style of “M/s.Max Infra (India) Limited”, Hyderabad under the Companies Act.

(p.t.o.)

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2. The above two works were concluded with a stipulated period of 3½ months. But the contractor could not complete the work even in the extended period also. Ultimately the contract was determined on 08.07.1999. The contractor has filed an O.S.Nos. 7/2002 and 8/2002 on the file of the II Additional Chief Judge, City Civil Court, Hyderabad by challenging the termination of contract with the following claims:-

OS No. 7 of 2002 :-

a)	EMD	Rs.7,13,156
b)	F.S.D	Rs.3,93,369
c)	Payment due for the item of side lining work under G.O.Ms.35 Dt.25.03.1996	Rs.12,00,000
d)	I)Work done not paid II)Release of full in lieu of part rate paid in intermediate bills	Rs.25,88,846
e)	Refund of fines recovered from bills	Rs.6,000
f)	Towards balance amount due (difference in rate) for conveying CNS soils.	Rs.10,24,000
g)	Total	Rs.59,25,371

OS NO. 8 of 2002:-

a)	EMD	Rs.6,81,800
b)	F.S.D	Rs.2,74,598
c)	Release of full in lieu of part rate paid in intermediate bills	Rs.13,91,214
d)	Refund of fines recovered from bills	Rs.6,000
e)	Total	Rs.23,53,612

3. The above suits were contested by the Department and after detailed trial and enquiry, the suits were decreed on 09.03.2005 & 22.03.2005 for Rs.85,32,534/- and Rs.33,89,201/- together with interest at the rate of 9% p.a. from the date of determination i.e., 08.07.1999 to the date of filing the suit i.e 21.12.2001. Aggrieved by the above said judgments/decrees, the Department has preferred an Appeal No. 244/05 and 245/05 in the Hon'ble High Court of A.P Hyderabad and obtained stay of execution on 09.08.2006 subject to depositing half of the decreed amount. Based on the instructions of the Advocate General, A.P, Hyderabad, an amount of Rs.52,08,046/-in OS No. 7 of 2002 and Rs.20,68,682/- in OS No 8 of 2002 was deposited in the II Additional District Judge, City Civil Court, Hyderabad on 5.12.2006. Since, the Trial Court granted interest only up to the date of filing of the suit, instead of interest up to realization, the contractor has filed cross objections to that extent before the Hon'ble High Court of A.P., Hyderabad.

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4. In the reference first read above, the Hon'ble High Court of A.P., Hyderabad, in its orders dated 01.04.2009 in CCCA 244 and 245 of 2005 & Cross Objections (SR) No.10500 of 2009 have directed the respondents to approach the Principal Secretary of the Department concerned by filing appropriate applications within three weeks; on filing which, the said authority shall make an effort to conciliate and settle the claims within a period of three months from the date of filing the application. In pursuance of the said directions and on receipt of the representation from the Firm, i.e. M/s. Max Infra (India) Limited, Hyderabad, vide reference second read above, the matter has been referred to the Conciliation Committee concerned as constituted for the purpose, vide G.O.Rt.No.103, Irrigation & CAD (ARB) Department, dated 24.01.2008. The Committee has submitted its report, vide reference third read above.

5. After examination of the Committee Reports, all the disputed claims have been negotiated with the representatives of M/s. Max Infra (India) Limited, Hyderabad. During the meeting, the Firm has expressed its willingness to accept the lumpsum amount of Rs. 22,00,000/- (Rupees Twenty Two lakhs only) in OS No.7/2002 and for Rs.7,00,000/- (Rupees Seven lakhs only) in OS No.8/2002 including interest towards full and final settlement of all claims of the Arbitration award dated 09.03.2005 and 22.03.2005. To this effect, the Firm has given a declaration on a notarized affidavits, stating that, they shall withdraw all legal proceedings in Hon'ble High Court of A.P., or in any other Courts, if the above amount paid to them in token settlement of the Arbitration cases pending in Courts after realization of accepted amount.

6. After careful examination of the entire matter, it has been decided to accept the claim offered by the Firm. Accordingly, Government hereby accord sanction for an amount of Rs.22,00,000/- in OS No.7/2002 and for Rs.7,00,000/- in OS No.8/2002 including interest towards full and final settlement of all claims of the Arbitration award dated 09.03.2005 and 22.03.2005 to be deposited to the credit of OS No.7 and 8 of 2002 before the Hon'ble II Addl. Chief Judge, City Civil Court, Hyderabad in respect of the work relating to (a) "Modernization of K.C.Canal lining to Main Canal from Km.91.000 to Km.96.500 (M9) vide Agt.No.11SE/1994-95 dated 23.05.1994" and (b) "Modernization of K.C.Canal lining to Main Canal from Km.96.500 to Km.102.000 (M10), vide Agt.No.5SE/1994-95 dated 06.04.1994", which was entrusted to M/s. Max Infra (India) Limited, Hyderabad, subject to condition that the above Firm should withdraw all legal proceedings pending in the courts in respect of the above said works against the Government or its representative officer after realization of the sanctioned amount.

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7. The expenditure sanctioned at para (6) above shall be debitable to the detailed Head of Account under “**MJH 4700, SMJH 01, MH 109 K.C.Canal, GH (11) Normal State Plan, SH (27) Canals and Distributories, Major works, 531 Other Expenditure (Charged).**”

8. The Chief Engineer (Project), Kurnool is directed to deposit the above sanctioned decretal amount to the credit of OS No.7 of 2002 & OS NO.8 of 2002 on the file of Hon'ble II Additional Chief Judge, City Civil Court, Hyderabad for avoiding further legal complications in the matter. He is also directed to instruct the disbursing officer concerned to obtain a declaration from the above Firm, accepting the amount as full and final settlement of their claims before depositing the above sanctioned amount in the respective Court.

9. This order issues with the concurrence of the Finance (W&P) Department, vide their U.O.Note No.625/F5(A1)/2014, dt.10.03.2014.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA
PRADESH)

D.KADMIEL
SECRETARY TO GOVERNMENT & COMMISSIONER, CADA

To
The Chief Engineer (Project), Kurnool.
The Superintendent Engineer, Irrigation Constructions, Kurnool.
The Accountant General, A.P., Hyderabad.
The District Treasury Officer, Kurnool.
The Pay & accounts Officer, Kurnool.
M/s.Max Infra (I) Limited, Plot No.319 & 320, East Avenue, 4th Floor, Ayyappa
Society, Madhapur, Hyderabad – 500 081.

Copy to:

The Govt. Pleader for Arbitration, High Court of A.P., Hyderabad.
The Law (B) Department.
The Finance (W&P) Department.
The I&CAD (P&B) Department, with a request to release LoC/authorization for
the expenditure sanctioned above.
The P.S. to Advisor to the Hon'ble Governor.
The P.S. to Secretary (I), I&CAD Department.
SF/SCs.

//FOR WARDERED: BY ORDER//

SECTION OFFICER